

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

JAMES P. HUNTLEY,	)	
	)	
Plaintiff,	)	Case No. 1:12-cv-122-SJM-SPB
	)	
v.	)	
	)	
ERIE COUNTY COURT OF COMMON,	)	
PLEAS, et al.,	)	
	)	
Defendants.	)	

**MEMORANDUM ORDER**

Plaintiff's civil rights complaint was received by the Clerk of Court on May 21, 2012 and was referred to United States Magistrate Judge Susan Paradise Baxter for report and recommendation in accordance with the Magistrates Act, 28 U.S.C. § 636(b)(1), and Rules 72.1.3 and 72.1.4 of the Local Rules for Magistrates.

The Magistrate Judge's Report and Recommendation, filed on October 18, 2012 [21], recommends that: (i) Defendant Erie County Court of Common Pleas' motion to dismiss [15] be granted, (ii) the State Defendants' motion to dismiss complaint [18] be granted; and (iii) Plaintiff's claims against Defendant Erie County Executive/Council be dismissed for Plaintiff's failure to serve in accordance with Rule 4(m) of the Federal Rules of Civil Procedure.

Plaintiff was allowed fourteen (14) days from the date of service in which to file objections. Service was made on Plaintiff by certified mail at SCI-Albion, where he is incarcerated. No objections to the Report and Recommendation have been filed to date.

After de novo review of the complaint and documents in the case, together with the Report and Recommendation, the following order is entered:

AND NOW, this 27th Day of November, 2012;

IT IS ORDERED that Defendant Erie County Court of Common Pleas' motion to dismiss [15] and the State Defendants' motion to dismiss complaint [18] shall be, and hereby are, GRANTED.

IT IS FURTHER ORDERED, pursuant to the authority provided in the Prison Litigation Reform Act, 28 U.S.C. § 1915A, that Plaintiff's claims against Defendant Erie County Executive/Council shall be, and hereby are, DISMISSED without prejudice for Plaintiff's failure to serve in accordance with Rule 4(m) of the Federal Rules of Civil Procedure.

The Report and Recommendation of Magistrate Judge Baxter, filed on October 18, 2012 [21], is adopted as the opinion of this Court.

s/ Sean J. McLaughlin

SEAN J. McLAUGHLIN  
United States District Judge

cm: All parties of record

U.S. Magistrate Judge Susan Paradise Baxter